

Broadband Service Providers Association (BSPA)

FCC Meetings – April 4, 2007

BSPA Participants: Rodger Johnson, CEO, Knology; Felix Boccucci, VP, Business Development, Knology; Bill Heaston, General Counsel, PrairieWave; Richard Ramlall, SVP, Strategic and External Affairs, RCN; Jack Day, Manager, External Relations, SureWest; Gary Evans, CEO, Hiawatha Broadband; John Goodman, BSPA; Martin Stern, K&L Gates.

Discussion Summary

I. MB Docket 07-29 – Sunset of Exclusive Contract Prohibition.

BSPA recommends the following FCC actions:

- A. Authorize a 5-year extension with the option for renewal as needed.
- B. Create a 120-day deadline for resolution of program access complaints.
- C. Strengthen the discovery rules and procedures.
- D. Adopt a binding arbitration option for disputes involving the prices, terms, and conditions of carriage.
- E. Provide for mandatory standstills preserving the status quo for pre-existing carriage during the adjudication of program access disputes.

II. The BSPA also recommends closing the Terrestrial Loophole.

Merger conditions imposed by the FCC in the DIRECTV and Adelphia transactions provide significant support for closing the Terrestrial Loophole.

- A. Regional Sports Networks are “must have” programming.
- B. Regional clusters of cable incumbents increase their regional market power and technical ability to use terrestrial delivery to distribute programming.
- C. Must have programming subject to vertical integration should be protected for competitive access regardless of how it is distributed and MVPD ownership.
- D. The Commission closed the Terrestrial Loophole for certain programming in the merger context, but has thus far declined to do so as a general policy matter.

The BSPA seeks the Commission’s endorsement to close the Terrestrial Loophole and apply the pro-competitive Section 628 provision equally to all MVPDs.

III. Franchising – The Further Notice for Proposed Rulemaking.

- A. BSPA supports application of the new franchise rules to renewals for competitive franchises and the incumbent cable franchises with which they compete.

- B. The same FCC authority that applied to new competitive franchises applies here.
- C. Existing competitive franchises deserve equal treatment.
- D. Existing incumbent franchises in competitive markets deserve equal treatment.
- E. Existing incumbent franchises should not be affected until wireline competition enters the market.